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09/29/2003

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EXAMINER

PICH, PONNOREAY

ART UNIT

PAPER NUMBER

2435

NOTIFICATION DATE

DELIVERY MODE

11/27/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/671,463 | Applicant(s) FUJIWARA ET AL. | |
| | Examiner PONNOREAY PICH | Art Unit 2435 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-11,13-19 and 22-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-11,13-19 and 22-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Appeal Brief filed on 8/3/09 was carefully reviewed by an Appeal Conference on 10/8/09. The conferees have considered the applicant's arguments. The conferees agreed with applicant's sole argument presented in the Appeal Brief and withdrew the finality of the Office action dated 11/12/08.

In view of the Appeal Brief filed on 8/3/09, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is a non-final) or reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental Appeal Brief, but no new amendments, affidavits, (37 CFR 1.130, 1.131, or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

Docketing

Please note that the application has been docketed to a different examiner. Please refer all future communications regarding this application to the examiner of record using the information supplied in the final sections of the Office action.

Claim Objections

Claims 1 and 8 are objected to because of the following informalities:

1. In line 4 of claim 1, "logging-in to" should be "logging into".
2. In line 7 of claim 1, "preset" should be inserted after "recognized".
3. "the number of times" in claim 8 should be "a number of times".
4. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11, 13-14, 23-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1. As per claims 27-29, in each of these respective claims, it is unclear to what "it" in line 2 refers, the "service server" or the "arrangement" which the service center has.
2. Regarding claims 11, 13, 23, and 27-30, the phrase "such as" renders the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
3. Claims not specifically addressed are rejected due to dependency.
4. Applicant is strongly urged to fully review the claims for any other informalities or indefinite limitations the examiner may have inadvertently missed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-14, 17-19, and 22-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshii (JP 2002-032279) in view of Itakura et al (US 6,351,745).

Note that unless stated otherwise, specific citations of Yoshii are to the machine translation of Yoshii provided by the Office as part of paper no. 20091121. Additional summary of Yoshii can be found in applicant's own specification (page 2, lines 6-14) and in the translated abstract provided by applicant on 9/29/03.

Claim 1:

Yoshii discloses:

1. Presetting a service class, among a plurality of service classes, for a user, wherein said service class is selected by the user (paragraphs 15, 38, 40 and 42). *At least two preset service classes, i.e. courses, are provided. For example, service class/course A provide for free internet access to the user after authentication of the user, however, only if the concurrent connection limit has not been reached. Service class/course B provides for internet access also, but allows for more concurrent connection limits while charging a connection fee to the user.*

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2. Authenticating said user, when logging into a network, according to said preset service class for said user (paragraphs 20-24, and 38-40).
3. Recognizing said preset service class for said user (paragraph 22-24 and 39-40).
4. Wherein a service class, among the plurality of service classes, is selected by said user and preset for said user (paragraphs 15 and 22).

Note that in Yoshii's invention as discussed in the citations above, the particular service class is chosen by the user via the user using a particular userid and password combination to gain internet access.

Yoshii does not explicitly disclose wherein advertisement data, which have been preliminarily received from an advertisement requester and accumulated, are distributed to said user in correspondence to said service class. However, Itakura discloses advertisement data, which have been received from an advertisement requester and accumulated, are distributed to said user (col 3, lines 15-52; col 12, lines 5-14; and col 16; lines 1-17). Note that the messages/advertisements in Itakura's invention are targeted to particular users as identified by the user ID and password used (col 9, lines 55-65 and col 13, lines 29-41).

In light of Itakura's invention, it would have been obvious to one skilled in the art to modify Yoshii's invention such that if the user chooses a service class/course which provides free internet access, advertisement data, which have been preliminarily received from an advertisement requester and accumulated, are distributed to said user in correspondence to said service class since in Yoshii's invention, the user ID identifies

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the service class and in Itakura's invention, the user ID is used to control which advertisements get sent to the user for viewing.

One skilled should appreciate that whether or not the user pays for the internet access, costs associated with providing access has to be paid by someone. As such, one skilled would have been motivated to incorporate Itakura's teachings within Yoshii's invention in the manner discussed above because it would allow the ISP disclosed by Yoshii to offset costs associated with providing internet access via use of advertising revenue (col 10, line 62-col 11, line 7). Note that from Itakura's additional teachings, one skilled having common sense and ordinary creativity should understand that one can even modify Yoshii's invention such that there are several types of service classes wherein costs to the user may be offset via the amount of advertisements the user is willing to view during online sessions. This means that if the user is willing to view a sufficient number of advertisements, the user can access the internet for free or at a discounted rate. If the user does not want to view advertisements, then the user can just pay the cost of access himself/herself, i.e. as done in service class/course B in Yoshii's invention. Each of these different types of access can be considered a service class.

Claim 17:

Yoshii discloses:

1. A network managing server for managing a network utilization state of a user (paragraphs 19 and 27-28, i.e. authentication server and/or attestation DB).
2. A router for connecting the system to the internet (paragraph 27).

3. A service server, the service server being arranged to provide services and charge fees to said user, based on a service class data for managing a plurality of service classes and fee management data for managing a state of fee charging for said user (paragraphs 19, 24, and 31-35).
4. Wherein a service class, among the plurality of service classes, is selected by said user and preset for said user (paragraphs 15, 38, 40 and 42).

Note that in Yoshii's invention as discussed in the citations above, the particular service class is chosen by the user via the user using a particular userid and password combination to gain internet access.

Yoshii does not explicitly disclose an advertisement distributing server for accumulating advertisement data preliminarily received from advertisement requester and distributing the accumulated advertisement to said user, the advertisement distributing server being applicable to distribute advertisement data to said user, corresponding to said service class data. However, Itakura discloses an advertisement distributing server for accumulating advertisement data preliminarily received from advertisement requester and distributing the accumulated advertisement to said user (col 3, lines 15-52; col 12, lines 5-14; and col 16; lines 1-17). Note that the messages/advertisements in Itakura's invention are targeted to particular users as identified by the user ID and password used (col 9, lines 55-65 and col 13, lines 29-41).

In light of Itakura's invention, it would have been obvious to one skilled in the art to modify Yoshii's invention such that it included an advertisement distributing server for

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accumulating advertisement data preliminarily received from advertisement requester and distributing the accumulated advertisement to said user if the user chooses a service class/course which provides free internet access, so that the advertisement distributing server is applicable to distribute advertisement data to said user, corresponding to said service class data since in Yoshii's invention, the user ID identifies the service class and in Itakura's invention, the user ID is used to control which advertisements get sent to the user for viewing.

One skilled should appreciate that whether or not the user pays for the internet access, costs associated with providing access has to be paid by someone. As such, one skilled would have been motivated to incorporate Itakura's teachings within Yoshii's invention in the manner discussed above because it would allow the ISP disclosed by Yoshii to offset costs associated with providing internet access via use of advertising revenue (col 10, line 62-col 11, line 7). Note that from Itakura's additional teachings, one skilled having common sense and ordinary creativity should understand that one can even modify Yoshii's invention such that there are several types of service classes wherein costs to the user may be offset via the amount of advertisements the user is willing to view during online sessions. This means that if the user is willing to view a sufficient number of advertisements, the user can access the internet for free or at a discounted rate. If the user does not want to view advertisements, then the user can just pay the cost of access himself/herself, i.e. as done in service class/course B in Yoshii's invention. Each of these different types of access can be considered a service class.

Claim 2:

Yoshii further discloses wherein a fee corresponding to the service class is computed based on fee managing data and charged to said user (paragraphs 15, 31-38, 42, and 45).

Claim 3:

Yoshii further discloses wherein said service class is preset for said user on the basis of a contract (abstract).

Claim 6:

Itakura further discloses wherein utilization or communication service fees concerning the distribution of the advertisement data to said user is covered by advertisement fees paid by the advertisement requester to an ISP based on the advertisement data as a subject of a request (col 10, line 62-col 11, line 7; col 16, lines 1-17; and col 17, lines 32-64).

Claim 7:

Itakura further discloses wherein the advertisement data preliminarily received from the advertisement requester and accumulated are further distributed to said user based on advertisement distribution requests therefrom (col 3, lines 44-52; col 4, lines 28-39; and col 10, lines 48-58).

Claim 8:

Itakura further discloses wherein an amount obtained by subtracting an advertisement reading fee corresponding to a number of times and frequency of advertisement reading from the internet connection service fee is charged (col 3, lines 44-65 and col 17, lines 32-64).

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Claim 9:

Itakura further discloses wherein the number of times of advertisement reading is the basis of discount computation or a value obtained by multiplying the number by a coefficient or a numerical value corresponding to frequency or degree is accumulated and updated as points (col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55).

Claim 10:

Itakura further discloses wherein points are accumulated and updated with respect to said user, who has read advertisements accumulated in the ISP which manages a system for counting the points from the outside via the internet (Fig 23; col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55).

Claim 11:

Itakura further discloses wherein advertisement data preliminarily received from the advertisement requester and accumulated are distributed to said user, and a distribution history such as the number of times and degree of the distribution, is accumulated and updated for each advertisement of the advertisement data (Fig 24; col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55).

Claim 13:

Itakura further discloses wherein a status indicating that said user has read advertisements by accessing a system, via the internet, and a distribution history such

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as the number of times and frequency of the distribution is accumulated and updated for each advertisement of advertisement data (Fig 24; col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55).

Claim 14:

Itakura further discloses wherein the system, which is managed by an advertisement dealer accumulating and possessing advertisement data concerning advertisements requested by an advertisement requester, possesses distribution record data obtained by recording the number of times and degree of advertisement distribution for obtaining a fee corresponding to the number of times and frequency of the advertisement distribution from the advertisement requester (col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55).

Claim 18:

Yoshii further discloses wherein the fee management data constitutes the basis of charging a fee corresponding to said service class of said user (paragraphs 15, 31-38, 42, and 45).

Claim 19:

Yoshii further discloses wherein the service class data are built up by preliminarily setting, by contracts, said service class for said user (abstract).

Claim 22:

Itakura further discloses wherein the service server is arranged such as not to charge any fee for advertisement distribution and communication services required

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therefor to said user (col 10, line 62-col 11, line 7; col 16, lines 1-17; and col 17, lines 32-64).

Claim 23:

Yoshii further discloses wherein the service server includes a service class correspondence table for managing the plurality of service classes and a fee managing table for managing fees for said user paragraphs 3, 6, 24, 32, and 45). As per the limitation that the correspondence table manages the plurality of service class such as to fit advertisement distribution requests from said user and distributes advertisement data received from an advertisement requester and accumulated, to said user based on the service class correspondence table, to meet said user's advertisement distribution request, it is obvious to the combination invention discussed in claim 17 due to Itakura's additional teachings (Figures 23-24; col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55). In the combination invention discussed in claim 17's rejection, the combination invention uses fees collected from advertising data to offset the cost associated with certain service classes. As such, this requires some sort of service class correspondence table which manages the plurality of service classes, to fit advertisement distributions to the user according to requests from the user, to track which advertisements the user has been exposed to in a given time interval, and to keep track of how much the user's internet access has been subsidized by advertisements.

Claim 24:

Itakura further discloses wherein the fee managing table in the service server is arranged such that the data of said user is updated to an amount obtained by subtracting an advertisement reading fee amount corresponding to the number of times and degree of advertisement reading from an internet service utilization fee (col 3, lines 44-65 and col 17, lines 32-64).

Claim 25:

Itakura further discloses wherein the service server further includes a point managing table for accumulating and updating, as points, a numerical value corresponding to the number of times of advertisement reading as the basis of a discount computation or a value obtained by multiplying the number by a coefficient or a numerical value corresponding to the number of times and degree of advertisement reading (col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55).

Claim 26:

Itakura further discloses wherein the service server is arranged to accumulate and update pertinent points regarding said user, who has read advertisements accumulated in the ISP for managing a point count system from outside via the internet (Fig 23; col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55).

Claim 27:

Itakura further discloses wherein the service server has an arrangement that it possesses distribution history accumulation data obtained for each advertisement of the

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advertisement data by accumulating and updating the distribution history such as the number of times and degree of the distribution of the advertisement (Fig 24; col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55).

Claim 28:

Itakura further discloses wherein the service server has an arrangement that it recognizes a status of reading of advertisement data accumulated by the advertisement requester by said user via the interview and possesses distribution history accumulation data obtained for each advertisement of the advertisement data by accumulating and updating the distribution history such as the number of time sand frequency of the distribution of the advertisement (Fig 24; col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55).

Claim 29:

Itakura further discloses wherein the service server has an arrangement that it recognizes a status of reading of the advertisement data by accessing a system, which is managed by an advertisement distributing dealer for accumulating and possessing advertisement data of advertisements concerning the request by an advertisement requester, and possesses distribution history accumulation data obtained by accumulating and updating distribution history such as the number of times and degree of distribution of each advertisement of the advertisement data (Fig 24; col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55).

Claim 30:

Itakura further discloses wherein the system managing the advertisement distribution dealer for accumulating and possessing advertisement data of advertisements concerning the request by an advertisement requester, possesses distribution record data obtained by recording the number of times and frequency of advertisement distribution for obtaining a fee corresponding to the number of times and degree of the advertisement distribution from the advertisement requestor (col 3, lines 44-65; col 10, lines 31-47; col 16, lines 1-17; col 17, lines 32-64; and col 18, lines 21-55).

Claims 15-16 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshii (JP 2002-032279) in view of Itakura et al (US 6,351,745) in further view of Kawano (JP 2001-298484).

Note Kawano and its translation were entered as part of the application file of the current application on 2/1/07. All citations to specific paragraphs of Kawano are made in reference to the translation provided on 2/1/07.

Claims 15 and 31:

As per the limitation of wherein said provide service is classified by predetermined communication qualities, it is disclosed by Kawano (paragraphs 5-7, 20, 25-26, and 37). At the time applicant's invention was made, it would have been obvious to one skilled in the art to further modify Yoshii's invention such that the provided

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service is further classified by predetermined communication qualities as disclosed by Kawano. One skilled would have been motivated to do so because it would allow a user to freely select and designate the service conditions of a network service desired in use for every connection and to be charged depending on the service condition selected by the user (Kawano: abstract).

Claim 16:

As per the limitation of wherein said provided service is classified based on a kind of preset accessible media and protocol, it is disclosed by Kawano (paragraphs 5-7, 20, 25-26, and 37) and Itakura (col 23, lines 53-55). At the time applicant's invention was made, it would have been obvious to one skilled in the art to further modify Yoshii's invention such that the provided service is further classified based on a kind of preset accessible media and protocol as is disclosed by Kawano and Itakura. One skilled would have been motivated to do so because it would allow a user to freely select and designate the service conditions of a network service desired in use for every connection and to be charged depending on the service condition selected by the user (Kawano: abstract).

Claim 32:

As per the limitation the internet connection service system which further comprises an access control unit for limiting communication media according to preset selections provided for said user's service class, and the service server include a media managing table, in which an accessible media and protocol are defined for each service class, it is disclosed by Kawano (paragraphs 5-7, 20, 25-26, and 37) and Itakura (col 23,

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lines 53-55). At the time applicant's invention was made, it would have been obvious to one skilled in the art to further modify Yoshii's invention according to the limitations recited in claim 32. One skilled would have been motivated to do so because it would allow a user to freely select and designate the service conditions of a network service desired in use for every connection and to be charged depending on the service condition selected by the user (Kawano: abstract).

Conclusion

Note that while the above citations of the art are meant to help applicant in consideration of the art with respect to the recited limitations, applicant should fully review all of the prior art of record since other sections not cited by the examiner could also be pertinent to the recited limitations and other combinations of the prior art of record could also be applicable in rejecting the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PONNOREAY PICH whose telephone number is (571)272-7962. The examiner can normally be reached on 9:00am-4:30pm Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ponnoreay Pich/

Primary Examiner, Art Unit 2435

/Kimyen Vu/

Supervisory Patent Examiner, Art Unit 2435